

**DURHAM, NORTH CAROLINA
WEDNESDAY, JUNE 24, 2020
7:00 P.M.**

The Durham City Council met in a regular session on the above date and time virtually via Zoom with the following members present: Mayor Steve Schewel, Mayor Pro Tempore Jillian Johnson and Council Members Javiera Caballero, DeDreana Freeman, Mark-Anthony Middleton and Charlie Reece. Absent: None.

Also Present: City Manager Tom Bonfield, City Attorney Kim Rehberg, City Clerk Diana Schreiber and Deputy City Clerk Ashley Wyatt.

Mayor Schewel called the meeting to order, welcomed everyone in attendance, and thanked all staff for their assistance with the virtual meeting.

[CEREMONIAL ITEMS]

Mayor Pro Tempore Johnson read into the record the proclamation celebrating LGBTQ Pride Month and presented it to J. Clapp, Director of the LGBTQ Center in Durham.

[SUPPLEMENTAL ITEMS]

CITY COUNCIL'S OFFICE

SUBJECT: RACISM: A PUBLIC HEALTH CRISIS (ITEM 53/ PR #14034)

Mayor Schewel read the resolution into the record and invited Dr. Wanda Boone to make brief comments.

Dr. Boone read a prepared statement regarding the resolution.

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to approve the Resolution recognizing Racism as a Public Health Crisis, was approved at 3:13 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

RESOLUTION #10180

ANNOUNCEMENTS BY COUNCIL

Council Member Reece gave an update on the Ward 3 vacancy and advised that the matter was scheduled to be discussed at the August 6th Work Session meeting and that he planned to reach out to all Council Members and several organizations to discuss that matter further.

Council Member Middleton thanked several community members and the Durham Affairs on the Advancement of Black People for their insight on various matters. He stated that every council member represented a portion of Durham; more money would be needed for the wellness and safety taskforce; the police department needed a more robust menu of services; black lives mattered; and that it was necessary to begin thinking of fundamental changes.

Council Member Reece asked if the council could receive a copy of the remarks made by Council Member Middleton.

Council Member Freeman thanked Council Member Middleton for his statement and thanked Council Member Reece for his work on the Ward 3 Vacancy. She also highlighted a book written by former Council Member Cynthia Brown and stated that the proceeds would go toward breast cancer awareness.

PRIORITY ITEMS BY THE CITY MANAGER, CITY ATTORNEY AND CITY CLERK

There were no priority items by City Manager Bonfield or by City Clerk Schreiber.

City Attorney Rehberg stated that the council needed to hold a closed session pursuant to N.C. Gen. Stat. 143-318.11(a)(3) for attorney-client consultation concerning the handling of matters regarding attorney/client privilege.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: GOODWIN CROSSING (ITEM 41/ PR #13840)

Emily Struthers, Senior Planner, stated for the record that the Planning Department hearing item had been advertised and noticed in accordance with state and local law, and affidavits of all notices are on file in the Planning Department and provided the following staff report:

Request for a zoning map change had been received from Jarrod Edens with Edens Land and Anderson Marlowe of Marlowe Builders. The 75.43 acre site was located at 1301 and 1312 Goodwin Road. The applicant had applied for a zoning map change from Planned Development Residential 2.310 to Planned Development Residential 2.167. The proposed development plan would remove commitments from the legacy development plan. Key commitments of the proposed development plan included that the proposed development would be limited to 149 single family residential lots with a minimum lot size of 5,000 square feet. As well as a 300 foot wildlife protection buffer along Cabin Creek, a 50 foot undisturbed perimeter buffer in some areas, roadway improvements, and off-site sidewalk. Additional commitments were identified in the staff report and on the Development Plan. The Durham Planning Commission, at their December 10th, 2019 meeting, recommended approval, by a vote of 12-0, of the proposed PDR 2.167 zoning. Staff determined that the request was consistent with the Comprehensive Plan, including the Future Land Use Map and other adopted ordinances and plans. Two motions were

required for the application. The first was to adopt a consistency statement and the second was for the zoning ordinance.

Mayor Schewel opened the public hearing and asked if there were any speakers to the item.

Jarrold Edens, a representative of the applicant stated that he was available for any questions.

Council Member Reece asked if there had been any changes to the proposal since the Planning Commission meeting.

Ms. Struthers advised that there had been changes and they included an offsite sidewalk as a new commitment.

Mayor Schewel added that the applicant also proffered a minimum lot size.

Council Member Reece expressed his support for the item and thanked the applicant for their additional commitments even though the planning commission had previously voted in favor of the item in its original form.

Council Member Freeman echoed the comments made by Council Member Reece and also appreciated that the buffers had been made stronger.

Seeing no additional speakers, Mayor Schewel declared the public hearing closed.

**UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1900010 – Goodwin Crossing**

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160A-383, is required to approve a statement describing how the action is consistent with the Durham Comprehensive Plan; and

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160A-383, is required to provide a brief statement indicating how the action is reasonable and in the public interest.

NOW THEREFORE, BE IT ADOPTED BY THE DURHAM CITY COUNCIL AS APPROPRIATE:

That final action regarding zoning map change Z1900010, Goodwin Crossing is based upon review of, and consistency with, the Durham Comprehensive Plan and any other officially adopted plan that is applicable, as provided in the 'Consistency with Adopted Plans' and 'Reasonable and in the Public Interest' sections of the staff report and

Attachment 6, 'Comprehensive Plan Consistency Analysis'; dated June, 24 2020, regarding the subject 'Goodwin Crossing' (Z1900010) along with additional agenda information provided to the City Council and information provided at the public hearing; and

It is the objective of the Durham City Council to have the Unified Development Ordinance promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. This zoning map change promotes this by offering fair and reasonable development regulations supported by the 'Consistency with Adopted Plans' and 'Reasonable and in the Public Interest' sections of the staff report and Attachment 6, 'Comprehensive Plan Consistency Analysis'; dated June, 24 2020, regarding the subject 'Goodwin Crossing' (Z1900010) along with additional agenda information provided to the City Council and information provided at the public hearing. Therefore, the request is reasonable and in the public interest.

MOTION by Council Member Freeman, seconded by Council Member Reece, to adopt a consistency statement as required by NCGS 160A-383, was approved at 3:31 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

MOTION by Council Member Reece, seconded by Council Member Freeman, to adopt an ordinance amending the Unified Development Ordinance by taking property out of Planned Development Residential 2.310 (PDR 2.310) and Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B) and establishing the same as the Planned Development Residential 2.167 (PDR 2.167) and Falls/Jordan Lake Watershed Protection Overlay District-B (F/J-B), was approved at 3:33 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

ORDINANCE #15674

SUBJECT: HEBRON VILLAGE (ITEM 42/ PR #13841)

Emily Struthers, Senior Planner, stated for the record that the Planning Department hearing item had been advertised and noticed in accordance with state and local law, and affidavits of all notices are on file in the Planning Department and provided the following staff report:

Request for a zoning map change had been received from Tim Sivers of Horvath Associates. The 31.267 acre site was located at 4728 Denfield Street. The applicant had applied for a zoning map change from Residential Suburban-20 and Residential Suburban-10 to Planned Development Residential 5.117. Key commitments of the proposed development plan include a maximum of 160 units - single family and townhouse with a minimum of 10% of each unit type within the development. As well as reduction of the drainage area from within the project to the northwest property corner discharge point by a minimum of 20 %, contributions to the Durham public schools and affordable housing fund.

Additional commitments are identified in the staff report and on development plan. The Durham Planning Commission, at their November 12th, 2019 meeting, recommended denial, by a vote of 0-13, of the proposed PDR 5.117 zoning. Staff determined that the request was consistent with the Comprehensive Plan, including the Future Land Use Map and other adopted ordinances and plans. Two motions were required for the application. The first was to adopt a consistency statement and the second was for the zoning ordinance.

Mayor Schewel opened the public hearing and asked for any speakers to the item.

Time Sivers and Jim Chandler, representatives for the applicant outlined aspects of the item that included the following: townhouses to be sold for \$180,000, single family homes to be sold in the range of the lower two hundred thousands, voluntary meetings that were had with residents, a commitment for a traffic device, access point issues, and the additional 15 text commitments that were included.

Scott Hurst, an adjacent property owner, spoke in favor of the item and asked council to support it.

Indiah Rounds, a resident of Durham, spoke to general concerns regarding development in the city.

Yolanda Williams, a resident of Durham, spoke in opposition of the item, citing traffic and flooding as her main concerns.

Angela Reddick, a resident of Durham, spoke in opposition of the item due to safety concerns. She stated that there had already been issues for pedestrians in the area and additional homes would add to the vehicles in the neighborhood.

Charles Barnes, a resident of Durham, spoke in opposition of the item and advised that there had been ongoing safety concerns at the Denfield and Hebron intersection. He also asked if taxes in that area would be going up and if the applicant had been given permission to begin clearing off the land.

Mayor Schewel asked for the Transportation Department to address the concerns of the residents.

Bill Judge, Assistant Director of the Transportation Department advised that a traffic impact analysis was not required for the type of site plan, but there were long term plans to extend Hebron rd.

Mayor Schewel asked when the extension would be happening.

Mr. Judge advised that the project was not currently funded so there was no timeline and signalization was not required; however a study could be done once normal traffic resumed.

Mayor Schewel asked if the Summer Meadows community was in the city limits.

Ms. Struthers stated that the proposed development was in the city limits.

Council Member Middleton thanked the residents for their comments and recognized that he was also surprised by the growth of the city. He also said that it was to be expected of a city that was growing and asked Mr. Sivers what the biggest change to the item was since the Planning Commission meeting.

Mr. Sivers responded, that addressing flooding concerns and the additional buffering were the biggest changes.

Mayor Schewel asked staff how they viewed the proffers submitted by the applicant.

Ms. Struthers stated that staff was okay with the proffers submitted by the applicant.

Mayor Schewel asked staff if the stormwater proffer was okay.

Ms. Struthers stated that staff was okay with the stormwater proffer.

Council Member Freeman asked for clarification on the buffers and what they entailed.

Mr. Sivers stated that the buffers were proposed to be a minimum of 20 foot evergreen trees.

Council Member Freeman asked how the applicant had price points for the homes with no builder committed to the project.

Mr. Sivers advised that they compared the price points of other homes in the area.

Council Member Freeman asked what plans were in place to mitigate flooding concerns.

Brajesh Tiwani of the stormwater review group stated that downstream flooding concerns would be addressed at the time of the site plan review by his review group.

Council Member Freeman advised that she would not be supporting the item and could not know how the development could affect the community.

Mayor Schewel asked if the applicant had already begun to clear off the land.

Mr. Sivers stated that the applicant had not begun to clear off the land.

Council Member Reece thanked staff for their work on the item; however he advised that he would not be supporting the item as there was no way to know the impact of the

development on the surrounding areas, there was no development plan, and that the item should have gone back before the Planning Commission.

Mayor Pro Tempore Johnson stated that the Affordable Housing crisis was always at the top of her list and expressed her intentions to support the item.

Council Member Caballero stated that the applicant was only doing what the city allowed and that the city would have to evaluate how similar cases would be addressed in the future. She recognized the concerns from residents and expressed her support for the item.

Council Member Freeman stated that the proposed development was in a watershed and that there was no way to know the price that the homes could be.

Council Member Middleton aligned himself with the comments made by Council Member Caballero, agreed with Mayor Pro Tempore Johnson regarding affordability, and stated that there were structural challenges in the process; however it could not be changed on a case by case basis.

Council Member Reece stated that the owner would have no way of knowing what a future builder would charge.

Council Member Middleton stated that he believed the applicant would govern themselves according to the information that they presented to council.

Council Member Freeman expressed concerns for a lack of guarantee for what the project would cost.

Mayor Schewel expressed his intent to support the item and stated that density would bring greater transit opportunities.

Sara Young, Interim Director of Planning, added that she knew that certain processes required improvement and that the department planned to address them sooner rather than later.

Council Member Freeman asked if there were any plans to review old sites.

Ms. Young stated that there were no plans to review old sites presently.

Seeing no additional speakers, Mayor Schewel declared the public hearing closed.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1900016 – Hebron Village

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160A-383, is required to approve a statement describing how the action is consistent with the Durham Comprehensive Plan; and

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160A-383, is required to provide a brief statement indicating how the action is reasonable and in the public interest.

NOW THEREFORE, BE IT ADOPTED BY THE DURHAM CITY COUNCIL AS APPROPRIATE:

That final action regarding zoning map change Z1900016, Hebron Village is based upon review of, and consistency with, the Durham Comprehensive Plan and any other officially adopted plan that is applicable, as provided in the 'Consistency with Adopted Plans' and 'Reasonable and in the Public Interest' sections of the staff report and Attachment 6, 'Comprehensive Plan Consistency Analysis'; dated June, 24 2020, regarding the subject 'Hebron Village' (Z1900016) along with additional agenda information provided to the City Council and information provided at the public hearing; and

It is the objective of the Durham City Council to have the Unified Development Ordinance promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. This zoning map change promotes this by offering fair and reasonable development regulations supported by the 'Consistency with Adopted Plans' and 'Reasonable and in the Public Interest' sections of the staff report and Attachment 6, 'Comprehensive Plan Consistency Analysis'; dated June, 24 2020, regarding the subject 'Hebron Village' (Z1900016) along with additional agenda information provided to the City Council and information provided at the public hearing. Therefore, the request is reasonable and in the public interest.

MOTION by Council Member Middleton, seconded by Council Member Caballero, to adopt a consistency statement as required by NCGS 160A-383, was approved at 4:46 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero and Middleton. Noes: Council Members Freeman and Reece. Absent: None.

MOTION by Council Member Middleton, seconded by Council Member Caballero, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Residential Suburban-20 (RS-20), Residential Suburban-10 (RS-10)) and Eno River District B (E-B); Falls/Jordan District B (F/J-B) and establishing the same as Planned Development Residential 5.117 (PDR 5.117) and Eno River District B (E-B); Falls/Jordan District B (F/J-B), was approved at 4:47 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero and Middleton. Noes: Council Members Freeman and Reece. Absent: None.

ORDINANCE #15675

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT,
AFFORDABLE HOUSING DWELLING UNIT DEFINITION (TC1900005)
(ITEM 43/ PR #13838)**

Michael Stock, Senior Planner, stated for the record that the Planning Department hearing item had been advertised and noticed in accordance with state and local law, and affidavits of all notices are on file in the Planning Department and provided the following staff report:

Text amendment TC1900005 amended the current definition of an “affordable housing dwelling unit” within Sec. 17.3, Defined Terms, of the Unified Development Ordinance (UDO). The amended definition did three primary things while keeping the definition focused and consistent the federal definition of low-income housing:

1. Reflects differences between rental and for-sale units
2. Allows for flexibility as residents’ income increases, and
3. Ties to the new compliance rules and procedures developed by the City Community Development Department, which were recently adopted by City Council, for tracking affordable housing units built under the UDO’s Affordable Housing Bonus Program (Sec. 6.6) and other incentives within the UDO.

Two actions were required, the first was for the consistency statement and the second was for the ordinance itself.

Mayor Schewel opened the public hearing and asked if there were any speakers to the item.

Council Member Reece asked if staff responded to Planning Commissioner Miller’s comments.

Mr. Stock advised that the language Commission Miller referenced was language adopted by council and that the department does not change it.

Council Member Freeman asked how the item would be enforced.

Mr. Stock advised that both the Department of Community Development and Planning could review cases as they arose.

Council Member Freeman asked how complaints could be filed.

Karen Lado Assistant Director of Community Development advised that the amendment goes by the Affordable Housing Density Bonus and that authorized the department to monitor annually and conduct on site visits. She also stated that property owners would be

required to file a report annually to demonstrate compliance; however there were currently no such units.

Seeing no additional speakers, Mayor Schewel declared the public hearing closed.

UNIFIED DEVELOPMENT ORDINANCE
TEXT AMENDMENT CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL REGARDING
TC1900005, Affordable Housing Dwelling Unit Definition

WHEREAS the Durham City Council, upon acting on a text amendment to the Unified Development Ordinance and pursuant to NCGS § 160A-383, is required to approve a statement describing how the action is consistent with the Durham Comprehensive Plan; and

WHEREAS the Durham City Council, upon acting on a text amendment to the Unified Development Ordinance and pursuant to NCGS § 160A-383, is required to provide a brief statement indicating how the action is reasonable and in the public interest.

NOW THEREFORE, BE IT ADOPTED BY THE DURHAM CITY COUNCIL AS APPROPRIATE:

That final action regarding text amendment TC1900005, Affordable Housing Dwelling Unit Definition, is based upon review of, and consistency with, the Durham Comprehensive Plan and any other officially adopted plan that is applicable, as provided in the “Issues” and “Consistency with the Comprehensive Plan; Reasonable and in the Public Interest” sections of the memo to the City Manager, dated June 24, 2020, regarding the subject “Unified Development Ordinance Text Amendment Affordable Housing Dwelling Unit Definition (TC1900005),” along with additional agenda information provided to the City Council and information provided at the public hearing; and

It is the objective of the Durham City Council to have the Unified Development Ordinance promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. The text amendment promotes this by offering fair and reasonable regulations for the citizens and business community of the City of Durham as supported in the “Issues” and “Consistency with the Comprehensive Plan; Reasonable and in the Public Interest” sections of the memo to the City Manager, dated June 24, 2020, regarding the subject “Unified Development Ordinance Text Amendment, Affordable Housing Dwelling Unit Definition (TC1900005),” along with additional agenda information provided to the City Council and information provided at the public hearing. Therefore, the amendment is reasonable and in the public interest.

MOTION by Council Member Reece, seconded by Council Member Middleton, to adopt the appropriate consistency statement as required per NCGS 160A-383, was approved at

5:00 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to adopt an ordinance amending the Unified Development Ordinance, incorporating revisions to Article 17, Definitions, was approved at 5:00 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Middleton and Reece. Noes: Council Member Freeman. Absent: None.

ORDINANCE #15676

[CLOSED SESSION]

MOTION by Council Member Middleton seconded by, Council Member Caballero, to hold a closed session pursuant to N.C. Gen. Stat. 143-318.11(a)(3) for attorney-client consultation concerning the handling of matters regarding attorney/client privilege, was approved at 5:02 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Freeman, Middleton and Reece. Noes: None. Absent: None.

Ashley Wyatt, CMC
Deputy City Clerk

Diana Schreiber, CMC
City Clerk